

SENATE BILL 1680

By Cohen

AN ACT to amend Tennessee Code Annotated, Title 2; Title 8; Title 16; Title 33; Title 38; Title 41; Title 49 and Title 67, relative to services provided by state, county and municipal governments, the means of funding and responsibility for funding those services, taxation, budgeting and miscellaneous fees and commissions charged by county officials and governments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. SECTION 1. Tennessee Code Annotated, Section 2-4-108(b), is amended by deleting the second sentence of the subsection.

SECTION 2. Tennessee Code Annotated, Section 2-4-109, is amended by deleting the third sentence of the section.

SECTION 3. Tennessee Code Annotated, Section 2-5-206(c), is amended by adding the language "election commission" immediately following the word "county" in the second sentence of the subsection.

SECTION 4. Tennessee Code Annotated, Section 2-5-207(e), is amended by adding the language "election commission" immediately following the word "county" in the second sentence of the subsection.

SECTION 5. Tennessee Code Annotated, Section 2-5-218, is amended by deleting subsection (b).

SECTION 6. Tennessee Code Annotated, Title 2, Chapter 9, is amended by adding the following as a new, appropriately designated section:

Beginning July 1, 2005, the purchase of any voting equipment for use by any county election commission shall become the sole responsibility of the state of Tennessee. All financing agreements with local governments for the purchase

of voting machinery or equipment made pursuant to this chapter prior to July 1, 2005, shall be terminated with the state assuming all financial liability for the purchase of the machinery or equipment.

SECTION 7. Tennessee Code Annotated, Section 2-12-108(a)(1), is amended by deleting the language "county funds" and substituting instead the language "state treasury".

SECTION 8. Tennessee Code Annotated, Section 2-12-108, is further amended by deleting the language "The compensation may be increased by resolution of the county legislative body." in the second subdivision (a)(2).

SECTION 9. Tennessee Code Annotated, Section 2-12-108, is further amended by deleting subdivision (c)(1) in its entirety and substituting instead the following:

(c)(1) The amount provided in this section shall be paid to the members for each day's attendance at meetings of the body.

SECTION 10. Tennessee Code Annotated, Section 2-12-109, is amended by deleting that section in its entirety and substituting instead the following:

2-12-109.

(a) It is the responsibility of the state to fund all operations of the county election commission of each county in a manner sufficient to discharge the statutorily mandated duties of the election commission.

(b) All expenses, including compensation of its employees and election officials, incurred by the county election commission or its members in the performance of duties under this title in holding municipal or county elections shall be paid out of the funds of the municipality or county, respectively, upon the certification of the chair and secretary of the county election commission except as otherwise expressly provided. If a municipal or county election is held on the same day as a state or federal election, the municipality or county shall pay only the expenses caused by the municipal or county

election which would not otherwise have been incurred in conducting the state or federal election as certified by the chair and secretary of the county election commission. If, after a legal proceeding involving a municipal or county election, the court finds that a subsequent election must be held due to an error committed by the county election commission, then the state shall pay the expenses of the subsequent election, unless the court finds that the county election commission's error resulted from the county election commission's reliance on information provided by the municipality or county.

(c) If one or more municipalities and a county hold an election the same day and such election is not held on the same day as a state or federal election, then the certified costs of the election shall be divided between the municipality or municipalities and county on a pro rata basis with each municipality paying a percentage of the costs that is equal to the percentage of registered voters living in the incorporated limits of the municipality compared with the total number of registered voters in the county and with the county paying the remainder of the costs.

SECTION 11. Tennessee Code Annotated, Section 2-12-116(a)(3), is amended by deleting the language "to be purchased by the county".

SECTION 12. Tennessee Code Annotated, Section 2-12-201(a)(3), is amended by deleting the language "presentation of the annual budget to the county commission or other legislative body for funding" and substituting instead the language "presentation of the annual budget to the office of the coordinator of elections for funding".

SECTION 13. Tennessee Code Annotated, Section 2-12-203, is amended by deleting the second sentence of such section.

SECTION 14. Tennessee Code Annotated, Section 2-12-208, is amended by deleting subsection (b) and redesignating subsequent subdivisions accordingly.

SECTION 15. Tennessee Code Annotated, Section 2-12-209, is amended by deleting the section in its entirety and substituting instead the following:

2-12-209. The state shall be responsible for paying the compensation of all certified administrators of elections and all other employees of the county election commission. Beginning July 1, 2005, all employees of the county election commission shall be deemed state employees for the purposes of insurance, workers' compensation, leave, all benefit programs, retirement, compensation increases or other related matters. Any period of service as an employee of the county working for the county election commission as a full-time employee shall be creditable service under the Tennessee consolidated retirement system.

SECTION 16. Tennessee Code Annotated, Section 8-20-120, is amended by deleting the third and fourth sentences of the section.

SECTION 17. Tennessee Code Annotated, Section 8-21-401(a)(6)(A), is hereby amended by deleting the language "fifteen percent (15%)" wherever it occurs and substituting instead the language "twenty percent (20%)".

SECTION 18. Tennessee Code Annotated, Section 8-21-701(55), is hereby amended by deleting the language "five percent (5%)" and substituting instead the language "twenty percent (20%)".

SECTION 19. Tennessee Code Annotated, Section 16-2-505(d), is amended by adding the following as a new subdivision (5):

(5) The state of Tennessee shall reimburse each county on an annual basis for all expenses incurred in carrying out the requirements of this subsection (d). Expenses shall include, but shall not be limited to, reasonable rent and utilities for space used in county owned buildings. At the end of each fiscal year, the county shall provide to the comptroller of the treasury a statement of all expenses incurred, and the state shall reimburse the county within ninety (90) days after receipt of such invoice.

SECTION 20. Tennessee Code Annotated, Section 33-5-409(b), is amended by deleting the language “deliver the person to the sheriff of the county from which the person was admitted” and substituting instead the language “deliver the person to an officer of the Tennessee highway patrol”.

SECTION 21. Tennessee Code Annotated, Section 33-6-406, is amended by deleting the language “sheriff” wherever it appears and substituting instead the language “Tennessee highway patrol officer”.

SECTION 22. Tennessee Code Annotated, Section 33-6-407, is amended by deleting the language “sheriff” wherever it appears and substituting instead the language “Tennessee highway patrol officer”.

SECTION 23. Tennessee Code Annotated, Section 33-6-610(d), is amended by deleting the language “The sheriff” wherever it appears and substituting instead the language “An officer of the Tennessee highway patrol”.

SECTION 24. Tennessee Code Annotated, Section 33-6-611, is amended by deleting the language “the sheriff” wherever it appears and substituting instead the language “an officer of the Tennessee highway patrol”.

SECTION 25. Tennessee Code Annotated, Section 33-6-615, is amended by deleting the language “the sheriff” wherever it appears and substituting instead the language “an officer of the Tennessee highway patrol”.

SECTION 26. Tennessee Code Annotated, Section 33-6-901, is amended by deleting the section in its entirety and substituting instead the following:

(a) The Tennessee highway patrol is designated as the primary transportation agent for all persons with mental illness or serious emotional disturbance who are to be transported under part 4 or 5 of this chapter. The commissioner of the department of safety, in consultation with the department of mental health and developmental

disabilities, is authorized to designate secondary transportation agents to perform such responsibilities when the highway patrol is unable to do so.

(b) To be designated as a secondary transportation agent, the designee must be available twenty-four (24) hours per day, provide adequately for the safety and security of the person to be transported, and provide appropriate medical conditions for transporting persons for involuntary hospitalization. Local governments may not be designated as secondary transportation agents unless the governing body of such local government consents to such designation by resolution or ordinance. A secondary transportation agent has the same duties and authority under this chapter in the detention or transportation of such persons as the highway patrol.

(c) The department shall provide training on mental health crises management for transportation agents and the officers of the Tennessee highway patrol.

SECTION 27. Tennessee Code Annotated, Title 38, Chapter 7, Part 1, is amended by adding a new section as follows:

SECTION \_\_\_\_\_. Except as provided in Section 38-7-111, each county, by resolution of its legislative body, may impose a fee not to exceed five hundred dollars (\$500) for each postmortem examination conducted by the county medical examiner or such examiner's designee. This fee shall be payable upon the issuance of findings of the county medical examiner and shall be payable from the estate of the decedent who received the postmortem examination. If such a fee is imposed, the county medical examiner shall send a listing of the postmortem examinations conducted by, or at the direction of, the county medical examiner monthly to the county attorney, and the county attorney shall make a claim against the estate of the decedent for the postmortem examination fee. The proceeds from the fee shall be remitted to the county trustee and deposited in the county general fund.

SECTION 28. Tennessee Code Annotated, Section 41-8-106(c)(1), is amended by designating the existing language as subdivision (c)(1)(A) and adding the following as a new subdivision (c)(1)(B):

Counties shall also be reimbursed for housing prisoners charged with a felony offense and subsequently sentenced to more than one (1) year of continuous confinement during the time such prisoner is detained in a county correctional facility prior to sentencing. The amount of reimbursement shall be determined in the same manner as if the prisoner was housed as a state prisoner pursuant to the other provisions of this section.

SECTION 29. Tennessee Code Annotated, Section 49-3-306, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) Notwithstanding any other provision of law to the contrary, the state shall be responsible for providing one hundred percent (100%) of the total cost of instructional salaries and benefits. The commissioner of education, with the approval of the state board of education, shall establish the maximum number of instructional positions for each LEA. The level of salaries and benefits shall be determined by the commissioner with the approval of the state board. The commissioner, with the approval of the state board, shall develop each year a state salary schedule based on training and experience, and taking into account the average instructional staff salary for the southeastern region and such other factors as the commissioner and the board deem appropriate, which state salary schedule shall establish the salary of all instructional personnel. The salaries of instructional personnel shall not be reduced below the amount actually received by such personnel during the 2005-2006 school year. Local education agencies shall not supplement instructional salaries.

SECTION 30. Tennessee Code Annotated, Section 49-3-306, is amended by deleting the last two sentences of subsection (b).

SECTION 31. Tennessee Code Annotated, Section 49-3-306, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) In the event that state appropriations are insufficient to meet the state's obligations under subsection (a) in any year, the commissioner shall, in consultation with the board, either reduce the state salary schedule proportionately or reduce the maximum number of instructional positions, or both, to a level that is within the state appropriations for the year. If the number of instructional positions is reduced below the number required to meet the maximum class size requirements under section 49-1-104, then the provisions of section 49-1-104 are waived until such time as funding is available to restore such positions.

SECTION 32. Tennessee Code Annotated, Section 49-3-306, is amended by deleting subsections (d), (e) and (f) in their entirety.

SECTION 33. Tennessee Code Annotated, Section 49-3-366, is amended by deleting such section in its entirety.

SECTION 34. Tennessee Code Annotated, Section 67-4-401, is amended by deleting such section in its entirety.

SECTION 35. Tennessee Code Annotated, Section 67-4-409(d)(2), is amended by deleting the language "five percent (5%)" and substituting instead the language "twenty percent (20%)".

SECTION 36. If any provision of this act or the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.



SECTION 37. For the purposes of establishing a state salary schedule as provided in Section 29, this act shall take effect upon becoming a law. For all other purposes, it shall take effect on July 1, 2005, the public welfare requiring it.